

Affected Agency Notified: Yes  
Emergency Required: No  
Budget Adjust. Required: No  
Board Rec. Required: Yes  
Public Hearing: January 25, 2010  
Sponsor: Rushefsky  
Date: December 8, 2009

## EXPLANATION TO COUNCIL BILL NO. 2010 -

ORIGINATING DEPARTMENT: Planning and Development

PURPOSE: To rezone approximately 0.53 acres, generally located at 2557 East Cherry Street, from Planned Development District No. 177 to an O-1, Office District.

ZONING CASE NUMBER Z-05-2010/CONDITIONAL OVERLAY DISTRICT NO. 31

### BACKGROUND INFORMATION:

The applicant is proposing to rezone approximately 0.53 acres of land from a Planned Development District No. 177 to an O-1, Office District. Approval of this request will permit the entire building to be used for a professional office rather than only 30% of the floor area as restricted in the existing Planned Development.

A Conditional Overlay District is being proposed to require the existing driveway on the east side of the property to be closed and establishing a minimum distance for a driveway from Cherry Street when Oak Grove is extended north of Cherry. In addition, the Conditional Overlay District requires additional right-of-way to be dedicated for Cherry Street to bring it up to standard for a secondary arterial roadway.

### RECOMMENDATIONS:

The Planning and Zoning Commission held a public hearing on January 7, 2010 and recommended \_\_, by a vote of \_\_ to \_\_, of the proposed zoning on the tracts of land described on the attached sheet (see the attached Record of Proceedings).

The Planning and Development staff recommends **approval** of the proposed zoning with the conditions listed below (see the attached Zoning and Subdivision Report).

### FINDINGS FOR STAFF RECOMMENDATION:

1. The requested O-1, Office District zoning is comparable to the existing Planned Development on the property and will provide for infill of the existing building.
2. The location of the subject property is appropriate for low intensity office uses as proposed.

FINDINGS FOR COMMISSION TO RECOMMEND DENIAL:

1. None

Submitted by:

Approved by:

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Planning and Development

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City Manager

EXHIBITS:

Exhibit A, Legal Description

Exhibit B, Record of Proceedings

Exhibit C, Conditional Overlay District provisions

Exhibit D, Location Map

ATTACHMENTS:

Attachment 1, Background Report

Attachment 2, Neighborhood Meeting Summary

EXHIBIT A  
LEGAL DESCRIPTION  
ZONING CASE Z-05-2010/CONDITIONAL OVERLAY DISTRICT NO. 31

THAT CERTAIN PARCEL OR TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 29 NORTH, RANGE 21 WEST MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT AN EXISTING IRON PIN AT THE NORTHWEST CORNER OF LOT 14, BEECHWOOD HEIGHTS 4TH ADDITION, A RECORDED SUBDIVISION IN SPRINGFIELD, GREENE COUNTY, MISSOURI; THENCE, S02°36'14"W, ALONG THE EAST LINE OF SAID SECTION 20, A DISTANCE OF 377.95 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF THE BURLINGTON NORTHERN RAILROAD; THENCE, N58°23'20"W, ALONG SAID SOUTH RIGHT-OF-WAY LINE, 40.31 FEET FOR THE POINT OF BEGINNING; THENCE S10°17'59"E, 45.09 FEET TO A POINT OF CURVATURE TO THE RIGHT; THENCE ALONG SAID CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 570.00 FEET, A CENTRAL ANGLE OF 14°23'43", AN ARC DISTANCE OF 143.21 FEET; THENCE, S04°05'44"W, 113.71 FEET; THENCE, S48°34'49"W, 28.30 FEET TO THE NORTH RIGHT-OF-WAY LINE OF CHERRY STREET; THENCE, N85°54'40"W, ALONG SAID NORTH RIGHT-OF-WAY LINE, 72.59 FEET; THENCE, N02°36'14"E, 357.24 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF BURLINGTON NORTHERN RAILROAD; THENCE, S58°23'20"E, ALONG SAID SOUTH RIGHT-OF-WAY LINE, 81.87 FEET TO THE POINT OF BEGINNING.

EXHIBIT B  
RECORD OF PROCEEDINGS  
ZONING CASE Z-05-2010/CONDITIONAL OVERLAY DISTRICT NO.31

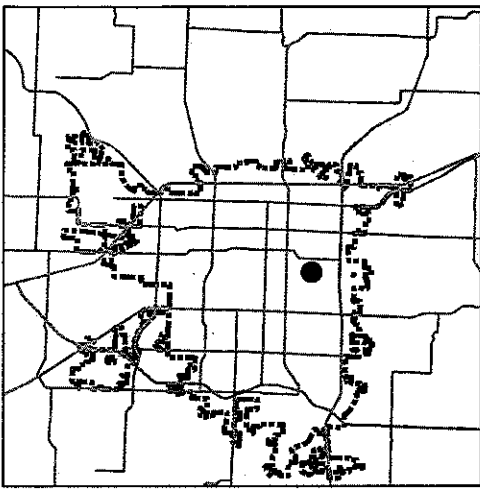
(The Record of Proceedings will be prepared for the City Council meeting)

EXHIBIT C  
CONDITIONAL OVERLAY DISTRICT PROVISIONS  
ZONING CASE Z-05-2010/CONDITIONAL OVERLAY DISTRICT NO. 31

The requirements of *Section 4-2000* of the *Springfield Zoning Ordinance* shall be as modified herein for development within this district.

A. Use Limitations

1. Additional right-of-way shall be dedicated for Cherry Street to total thirty-five (35) feet from the centerline.
2. Once Oak Grove Avenue is extended north of Cherry Street, all driveways to Cherry Street from this property shall be immediately closed and the greenway restored. Also, a driveway meeting current Public Works standards will be allowed to the Oak Grove Avenue extension, but shall be no closer than 150 feet from the north right-of-way line of Cherry Street. Driveway permits will be required to close the existing drives and to construct the new drive and can be obtained from Traffic Engineering prior to the work being done.



# Zoning & Subdivision Report

Planning & Development - 417/864-1611  
840 Boonville - Springfield, Missouri 65801

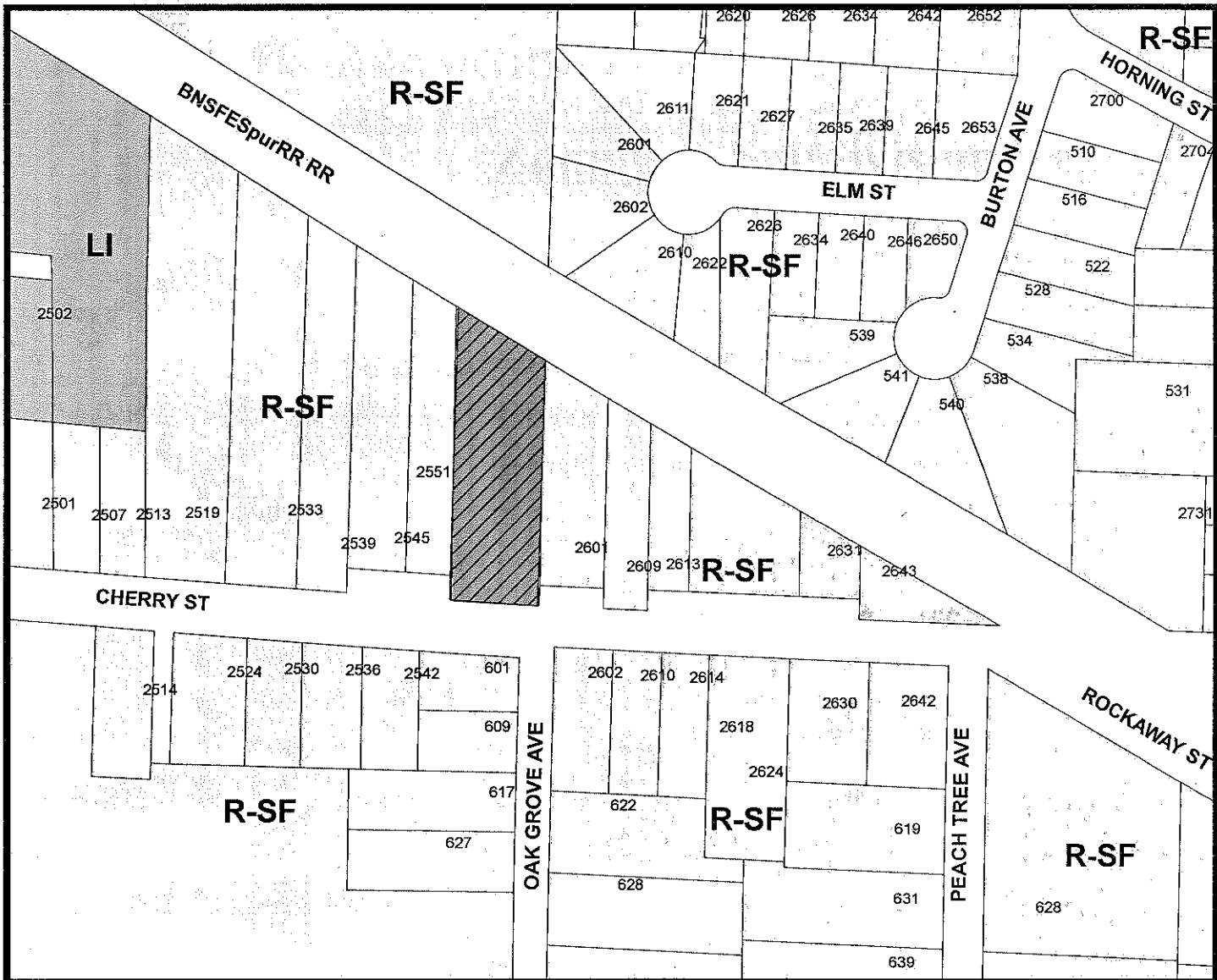
## Zoning Case Z-05-2010

Location: 2557 East Cherry

Current Zoning: Planned Development 177

Proposed Zoning: O-1, Office District

### LOCATION SKETCH



- Area of Proposal



1 inch = 200 feet

ATTACHMENT 1  
BACKGROUND REPORT  
ZONING CASE Z-05-2010/CONDITIONAL OVERLAY DISTRICT NO. 31

DATE: December 8, 2009

LOCATION: 2557 East Cherry Street

APPLICANT: Empire Bank

TRACT SIZE: Approximately 0.53 acres

EXISTING USE: Vacant building

PROPOSED USE: Professional Law Office

SURROUNDING LAND USES:

AREA	ZONING	LAND USE
North	R-SF	Single Family Residential
East	R-SF	Single Family Residential
South	R-SF	Single Family Residential and church
West	R-SF	Single Family Residential and small retail establishment

PUBLIC WORKS TRAFFIC DIVISION COMMENTS:

1. The proposed rezone request is acceptable to Traffic Engineering.
2. Cherry Street is classified as a secondary arterial which requires 35 feet of right-of-way measured from centerline. It appears that 5 feet of additional right-of-way is required for Cherry Street.

STORMWATER COMMENTS:

Public Works Storm Water Division has no comments on this request. Existing detention and water quality is in place.

SANITARY SERVICES COMMENTS:

No issues.

#### ADJACENT PROPERTY OWNER COMMENTS:

Fifteen (15) property owners are located within one hundred eighty-five (185) feet of the subject property and were notified by mail of this request. No one has objected to this request to date.

#### NEIGHBORHOOD MEETING:

The applicant held a neighborhood meeting on December 15, 2009. A summary of the meeting is attached (Attachment 2).

#### STAFF COMMENTS:

1. The existing Planned Development was approved in January 1995. When the Planned Development was approved, there was an existing convenience store on the site and the Planned Development was approved to make the legal nonconforming convenience store a conforming use. The convenience store is no longer in operation and the applicant is requesting O-1, Office zoning to permit a professional Law office to locate in the existing building. The existing Planned Development permits development consistent with the LB, Limited Business District, which restricts office uses to no more than thirty (30) percent of the total floor area permitted on the lot. Approval of this request would allow the entire building to be used for office uses. The following are some additional differences between the existing Planned Development and the proposed O-1 zoning district:
  - a. Some of the uses permitted on this property will change as part of this proposal. The existing Planned Development permits uses that are permitted in the LB, Limited Business District. Restaurants, excluding drive-in, pick-up or drive-thru facilities, are permitted under the existing zoning but would not be permitted in the O-1 district. Personal service establishments and specialty retail uses are permitted within the existing Planned Development, but would be restricted to locate only in an office building and could not exceed ten (10) percent of the gross floor area of the office building in the O-1 District. Approval of this request would permit some additional uses that are not currently permitted including athletic clubs, fitness centers and indoor sports facilities, banks and financial institutions, colleges, universities and business colleges, medical and dental clinics and medical and dental offices. A matrix is attached (Exhibit 1) that shows a complete comparison of the uses permitted in the existing Planned Development and the requested O-1 District.
  - b. The existing Planned Development permits a maximum floor area ratio of 0.35. If this application is approved, a maximum floor area ratio of 0.40 would be permitted.
  - c. Primary structures under the existing zoning are restricted to a maximum height of twenty-five (25) feet. The O-1 District permits a maximum height of thirty-five (35) feet, except that all structures must remain below a forty-five (45) degree bulk plane from any residential district.
  - d. Under the existing zoning, no individual retail store, personal service establishment or other permitted use shall have a gross floor area greater than five-thousand (5,000) square feet. The requested O-1 District would not have this restriction.

- e. The existing Planned Development requires a bufferyard type D, at least fifteen (15) feet wide with a fence, along the west and north property lines. If approved, a minimum fifteen (15) foot wide bufferyard type C would be required adjacent to the north and west property lines. The intent is for the proposed office use to locate in the existing building, therefore no changes are planned to the existing bufferyards.
  - f. The other requirements of the existing zoning including signage, setback requirements and off-street parking will not change as a result of this application.
- 2. The subject property is located at the intersection of Cherry Street and Oak Grove Avenue, two secondary arterial roadways. The previous owner of the property dedicated right-of-way along the east property line of the subject property for the future extension of Oak Grove Avenue north of Cherry Street. The City owns the adjacent tract to the east for the additional street right-of-way. This location at the intersection of two secondary arterials and adjacent to single family residential development is appropriate for low intensity office uses as proposed. Approval of this request will not substantially change the development requirements for the subject property and will provide for infill of this existing structure and continued maintenance of the property.
  - 3. A Conditional Overlay District is included with this proposal to require additional right-of-way to be dedicated for Cherry Street to bring it up to standard for a secondary arterial roadway and to provide for access restrictions to Oak Grove Avenue upon its extension north of Cherry Street.

#### FINDINGS FOR STAFF RECOMMENDATION:

- 1. The requested O-1, Office District zoning is comparable to the existing Planned Development on the property and will provide for infill of the existing building.
- 2. The location of the subject property is appropriate for low intensity office uses as proposed.

#### FINDINGS FOR COMMISSION TO RECOMMEND DENIAL:

- 1. None

#### RECOMMENDATION:

Staff recommends **approval** of this request.

#### STAFF CONTACT PERSON:

Alana D. Owen, AICP  
Senior Planner

Attachment 2  
2-05-2010 / CDD#31

**LEE ENGINEERING AND ASSOCIATES, L.L.C.**

CIVIL ENGINEERING & DESIGN

2101 W. CHESTERFIELD BLVD.

SUITE C202

SPRINGFIELD, MO 65807

dlee@leeengineering.biz

TELEPHONE: (417) 886-9100

FACSIMILE: (417) 886-9336

December 16, 2009

**Neighborhood Meeting Report**

Rezone Properties at 2557 E. Cherry from Planned Development 177 to Office O-1 zoning.

The neighborhood meeting was held Tuesday, December 15, 2009 between 4 & 6:30 pm at The Library Center, 4653 S. Campbell, Springfield, MO. Derek Lee and Leslie Chrystal of Lee Engineering attended the meeting representing the owner. Nobody attended the meeting. We did receive a letter and an e-mail which are attached for your reference. Nobody has been opposed to the zoning change to my knowledge.

Please find attached a copy of the property owner's list generated by City staff and a copy of the neighborhood meeting notification letter to the property owners.

Sincerely,



Derek A. Lee, PE

**LEE ENGINEERING AND ASSOCIATES, L.L.C.**

CIVIL ENGINEERING & DESIGN

2101 W. CHESTERFIELD BLVD.

SUITE C202

SPRINGFIELD, MO 65807

TELEPHONE: (417) 886-9100

dlee@leeengineering.biz

FACSIMILE: (417) 886-9336

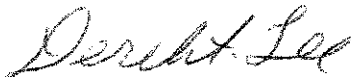
December 3, 2009

Re: Properties to be Rezoned  
2557 E. Cherry  
Former Jiffy Mart Property

Dear Property Owner:

A neighborhood meeting will be held Tuesday, December 15, 2009 to discuss rezoning the property listed above. Application has been made to the City of Springfield to rezone this property from PD177 to 0-1 Office Zoning. The intent of the zoning is to allow a Law Firm to use the existing building as their professional offices. The existing zoning does not permit over 30% of the total floor area permitted on the lot to be used for professional offices. The proposed 0-1 Office Zoning will allow the entire building to be used for professional offices. No new buildings or improvements are scheduled for the property. The neighborhood meeting will be held at The Library Center, 4653 S. Campbell, Springfield, MO., between 4:00 and 6:30 pm in The Grafton Room, which is located in the back of the library in the SW corner. The owner's representatives will be present to answer any questions you may have concerning this rezoning application. Please feel free to come and go between 4:00 and 6:30 pm.

Sincerely,



Derek A. Lee

ACKER, PHYLLIS J  
2302 S TERRACE DR  
SPRINGFIELD, MO 658043362

ALTON, JOE ETAL  
2176 E BARATARIA ST *Returned*  
SPRINGFIELD, MO 658043813

AUSTIN, BILL F ETAL TR  
5458 W OLD RIVER LN  
WILLARD, MO 657819417

BAKER, REBECCA  
2626 E HORNING ST  
SPRINGFIELD, MO 658022325

BETTS, ELZETTA  
619 S PEACH TREE AVE  
SPRINGFIELD, MO 658022773

BIELLIER, BRYAN D  
2620 E HORNING ST  
SPRINGFIELD, MO 658022325

BLEVINS, HARLEY IVER  
609 S OAK GROVE AVE  
SPRINGFIELD, MO 658022829

BREWER, JANET SUE  
2533 E CHERRY ST  
SPRINGFIELD, MO 65802

BRUER, ROBERT L  
1360 E BRADFORD PKWY  
SPRINGFIELD, MO 658044376

CLAYTON, MARY K TR  
PO BOX 4211  
SPRINGFIELD, MO 658084211

COLEMAN, BRADLEY  
2602 E ELM ST  
SPRINGFIELD, MO 658022321

CONN, ANN  
3577 STATE HIGHWAY U  
ROGERSVILLE, MO 657428068

COTTER, FRED N  
665 W STANFORD ST  
SPRINGFIELD, MO 658071923

CRANE, WM H (PETE)  
940 N BOONVILLE AVE  
SPRINGFIELD, MO 658023802

CUNNINGHAM, PATRICK  
2211 S MEADOWVIEW  
SPRINGFIELD, MO 65804

DAVIS, BELVA J  
2542 E CHERRY ST  
SPRINGFIELD, MO 658022826

DECK, MARY ELLEN TRUST  
PO BOX 10008  
SPRINGFIELD, MO 658080008

EMPIRE, BK  
PO BOX 3397  
SPRINGFIELD, MO 658083397

FRIEDHOFEN, MARION L  
2645 E ELM ST  
SPRINGFIELD, MO 658022321

FROST, ANTHONY RAY  
2530 E CHERRY ST  
SPRINGFIELD, MO 658022826

GRIFFIN, ARCHIE  
855 S GLENSTONE AVE  
SPRINGFIELD, MO 65802

GRIPENTROG, DANIEL J  
2621 E ELM ST  
SPRINGFIELD, MO 658022321

GROETEKE, GARY  
993 S OAK RIDGE RD  
NIXA, MO 657148738

HARRIS, DANIEL DREW  
5425 E BENNETT ST  
SPRINGFIELD, MO 658092603

HOLMES, ELIZABETH J  
1339 S AIRWOOD DR  
SPRINGFIELD, MO 658040520

KINGS CHAPEL ASSEMBLY OF GOD  
2434 E CHERRY ST  
SPRINGFIELD, MO 658022831

LAWSON, DARREN  
2609 E CHERRY ST  
SPRINGFIELD, MO 658022769

LYONS, DAVID  
2642 E CHERRY ST  
SPRINGFIELD, MO 658022770

MAGNIFICO, ANGELA  
PO BOX 92  
STRAFFORD, MO 657570092 *Returned*

MIDWEST HOUSING INC  
705 W BATTLEFIELD ST  
SPRINGFIELD, MO 658074131

MILLER, JOHN W  
2639 E ELM ST  
SPRINGFIELD, MO 658022321

MITCHELL, SANDRA G  
539 S BURTON AVE  
SPRINGFIELD, MO 658022309

NELSON, RICKY L SR  
6225 OAK GROVE  
SPRINGFIELD, MO 65802

NEWMAN ENTERPRISES LLC  
5229 W FARM ROAD 94  
SPRINGFIELD, MO 658038775

PETZOLD, LANITA M  
2611 E ELM ST  
SPRINGFIELD, MO 658022321

RCT REALTY LLC  
953 E LINWOOD DR  
SPRINGFIELD, MO 658071825

*Cory Rushing (son)*  
RUSHING, DONNA LEE *(author)*  
1944 S OLIVER AVE  
JOPLIN, MO 648044800  
*2646 E. Elm*

RYMER, GENEVIEVE J TR  
2524 E CHERRY ST  
SPRINGFIELD, MO 658022826

RYNEARSON, JOHN C  
2610 E ELM ST  
SPRINGFIELD, MO 658022321

SCHEIDEGGER, ERVIN  
631 S PEACH TREE AVE  
SPRINGFIELD, MO 658022773

SGB INVESTMENTS LLC  
2107 E ROCKHURST STE A  
SPRINGFIELD, MO 65802

SHADDY, RUTH ETAL  
1855 E CHERRY ST  
SPRINGFIELD, MO 65802

SHAY, DIANA J  
2643 E CHERRY ST  
SPRINGFIELD, MO 658022769

SHETRON, JAMES J  
541 S BURTON AVE  
SPRINGFIELD, MO 658022309

SHORTT, KATHLEEN B  
645 S OAK GROVE AVE  
SPRINGFIELD, MO 658022829

SIKES, JEFFREY A  
2622 E ELM ST  
SPRINGFIELD, MO 658022321

SLINC LLC  
1709 E BARNES ST  
OZARK, MO 657216669

SMITH, STEVEN LEE  
2748 W FARM ROAD 94  
SPRINGFIELD, MO 658039133

SPRINGER, STEPHEN M  
1517 S OAK GROVE AVE  
SPRINGFIELD, MO 658041724

STEEN, PAMELA F  
640 S OAK GROVE AVE  
SPRINGFIELD, MO 658022830

STOVALL, RICHARD A  
2624 E CHERRY ST  
SPRINGFIELD, MO 658022770

THOMAS, JESSE E  
2501 E CHERRY ST  
SPRINGFIELD, MO 658022825

VANHOOSE, JAMES E  
2612 E HORNING ST  
SPRINGFIELD, MO 658022325

VONG, DOS A  
2626 E ELM ST  
SPRINGFIELD, MO 658022321

WALKER MILLWORK  
CONTRACTING INC *Returned*  
306 W COURT ST  
SPRINGFIELD, MO 65803

WALLIN, ROBERT E ETAL TR  
603 W STATE HIGHWAY WW  
SPRINGFIELD, MO 658038204

WHITE, NAAMAN I  
540 S BURTON AVE  
SPRINGFIELD, MO 658022320

WILCOTT, DEBORAH L  
1455 S OAK GROVE AVE  
SPRINGFIELD, MO 658041741

WILLIAMS, VIRGINIA S (LISKA)  
6408 S FARM ROAD 193  
ROGERSVILLE, MO 657428251

WOOLEY, DOROTHY ETAL  
2619 E CHERRY ST  
SPRINGFIELD, MO 658022769

**Derek Lee**

**From:** Bill Austin [bandlaustin@mowisp.net]

**Sent:** Friday, December 11, 2009 8:36 PM

**To:** dlee@leeengineering.biz

**Subject:** re zoning on Cherry St.

Derek:

I recieved your letter about re zoning the property at 2557 E Cherry St. I have no objections, it sounds like it would be an up grade from the former use.

Bill Austin

12/15/2009

#903



**RHOMAR**

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December 7, 2009

Lee Engineering and Associates, LLC  
Attn: Derek Lee  
2101 W Chesterfield Blvd  
Springfield, MO 65807

Re: Property to be rezoned  
2557 E Cherry  
Former Jiffy Mart Property

Dear Mr. Lee,

I am the owner of the home located at 601 S Oak Grove, which is situated directly across the street from 2557 E Cherry. From your letter dated, December 3, 2009, I understand there is a desire to rezone this property for office use. As a neighbor, I am very supportive of this rezoning and look forward to the property being used in its proposed manner, which will certainly complement the neighborhood both functionally and cosmetically.

If I may be of assistance in your endeavor, please don't hesitate to contact me.

Regards,

Chris Slayden